

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Martha Johnson,)	Civil Action No.: 4:13-601-BHH
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
Carolyn Colvin, Acting Commissioner of Social Security,)	
)	
Defendant.)	
)	

On June 9, 2016, W. Daniel Mayes (“Mayes”), counsel for Plaintiff Martha Johnson (“Plaintiff”), filed a motion for attorney’s fees pursuant to 42 U.S.C. § 406(b). (ECF No. 40). In the motion, Mayes requests reimbursement for representation provided in the above-referenced case in the amount \$7,024.50. *Id.*

As required by 42 U.S.C. § 406(b), the amount requested by counsel is not greater than twenty-five percent (25%) of the past-due benefits recovered by Plaintiff. Counsel for the Acting Commissioner of Social Security (“Commissioner”) filed a Response to the Motion on July 11, 2016, in which he states that the Commissioner does not oppose an award of attorney’s fees under § 406(b). (ECF No. 42). The Court has reviewed the motion, counsel’s fee petition, and the accompanying fee agreement and finds that the request for the modified fees is reasonable.

Accordingly, IT IS ORDERED that Plaintiff’s Motion for Attorney’s Fees (ECF No. 40) pursuant to the Social Security Act, 42 U.S.C. § 406(b), be and hereby is GRANTED in the amount of \$7,024.50.¹

¹Plaintiff received \$5,177.75 in attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). (ECF No. 39). As Plaintiff’s attorney concedes in his Memorandum in Support of his Motion for Attorney Fees under 42 U.S.C. § 406(b), (ECF No. 40-1), he must refund to Plaintiff the EAJA fees already paid. See *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002); *Astrue v. Ratliff*, 130 S.Ct. 2521, 2528 (2010).

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

October 12, 2016
Greenville, South Carolina